



JULIE LASSA

STATE SENATOR

Senate Bill 464 Testimony
Senate Committee on Family Prosperity
Wednesday, March 5, 2008
400SE
10:00 a.m.

Chairman Jauch and Members of the Senate Committee on Family Prosperity,

Thank you for the opportunity to testify on Senate Bill 464 today.

I have worked with Representative Jeskewitz and the Department of Health and Family Services on this legislation to correct errors in 2005 Wisconsin Act 293 – a law passed as a result of a Legislative Council Study committee on Adoption and Termination of Parental Rights.

Senate Bill 464 makes changes to allow for the placement of adoptive children with their proposed out-of-state adoptive parents prior to the termination of parental rights. This is a significant change for updating adoption laws because private adoption attorneys have stated that birth mothers are leaving Wisconsin to give birth elsewhere so they can avoid having to place their newborn in foster care until the TPR can take place.

Secondly, when Legislative Council Study Committee discussed the need for pre-adoptive preparation, they did not intend to have the Department of Health and Family Services (DHFS) pay for private adoption preparation. This change allows DHFS to clarify that it is responsible for paying for the costs of pre-adoption preparation for first-time adoptive parents who adopt children from only the public child welfare system.

In addition, DHFS requested a small but important change related to when relative caregivers are subject to the Interstate Compact on the Placement of Children (ICPC). Currently, the ICPC does not apply to the sending or bringing of a child into a receiving state by certain relative caregivers. This bill simply clarifies that this exemption only applies to relative caregivers who have full legal rights to plan for the child.

This bill:

- Permits a child to be placed for adoption prior to termination of parental rights (TPR);
- Eliminates a requirement that the DHFS pay for pre-adoptive preparation when a child is placed for adoption by a child welfare agency; and
- Clarifies when the ICPC procedures apply to the sending or bringing of a child into a receiving state.

Thank you again for hearing this bill. I encourage your support for Senate Bill 464 as it makes its way through the legislature.



State of Wisconsin
Department of Health and Family Services

Jim Doyle, Governor
Kevin R. Hayden, Secretary

February 21, 2008

TO: Assembly Committee on Children and Family Law
FROM: Katie Plona, DHFS legislative liaison
RE: Assembly Bill 769

Good morning. I'm Katie Plona, legislative liaison for the Department of Health and Family Services. With me today is Cathy Connolly, policy consultant in our Division of Children and Family Services. Representative Owens and committee members, thank you for the opportunity to testify in favor of Assembly Bill 769. Thank you also to Representative Jeskewitz and Senator Lassa for authoring this bill at the Department's request.

AB 769 accomplishes three things:

- Act 293 from last session, which came out of a Legislative Council study committee that Rep. Jeskewitz chaired, appears to have unintentionally included a provision about payment of pre-adoption preparation for first-time adoptive parents. AB 769 amends current law to create a category of adoptions that covers only children adopted through the public child welfare system. This allows the Department to clarify that it is responsible for paying for the costs of pre-adoption preparation for first-time adoptive parents who adopt children from the public child welfare system. It also allows us to establish standards that apply solely to foster parents adopting children in the public child welfare system.
- It amends current law to allow legal risk adoptions in Wisconsin. Legal risk adoptions refer to the practice of placing children with the proposed adoptive parents before the termination of the birth parents' rights. This means that the birth parents could change their minds and ask for the return of their child from the proposed adoptive parents.
- The bill creates a structure around legal risk adoptions that: a) ensures the safety of children; b) supports the Legislative intent that the rights of birth parents must be protected prior to termination of their parental rights; and c) makes it more likely that prospective adoptive parents understand the process and risks involved.
 - The bill provides:
 - Legal risk adoptive placements in Wisconsin can only be made into licensed foster homes.
 - Legal risk adoptive placements outside the state must meet the requirements of the Interstate Compact for the Placement of Children.
 - A Legal Risk Agreement between the agency and adoptive parent(s) is required before any such placement can be made. The agreement must identify which party is financially responsible for the child prior to the adoption's finalization.
 - No participant may engage in behavior that discourages or coerces a birth parent from exercising his or her right to the return of his or her child or to reasonable visitation with the child until the termination of parental rights is complete.

- The agreement cannot contain a provision that the birth parent is responsible for the costs of returning the child to the birth parent or for costs the prospective adoptive parents incur while the child was in their care.
- Finally, the bill amends the ICPC in two instances:
 - It clarifies that the ICPC does not apply to children being placed by relatives with relatives across state lines as long as the relative placing the child has the full legal right to plan for the child and the court has not diminished that right.
 - It removes a change we believe was unintentionally included in Act 293 from last session. Currently, the law states, "Notwithstanding s. 48.988, when the proposed adoptive parent or parents of a child reside ..." The Department would like the phrase "notwithstanding s. 48.988," to be removed. As currently drafted, the law arguably allows certain children to be placed out of state with proposed adoptive parents without complying with the ICPC. However, since Wisconsin is a member of the Compact, state law cannot override the ICPC to allow individuals to ignore its requirements.

Thank you again for the opportunity to testify in favor of AB 769. Cathy and I are available to answer any questions you may have about the bill.

SUE JESKEWITZ

State Representative • 24th Assembly District

Senate Bill 464
Testimony before the Senate
Committee on Tax Fairness and Family Prosperity
March 5, 2008

Relating to placement of a child for adoption ..., payment for preadoption preparation ..., and the applicability of the Interstate Compact on the Placement of Children.

Thank you Chairman Jauch and members of the Tax Fairness & Family Prosperity Committee for hearing Senate Bill 464 today. I am unable to be here today to testify with Senator Lassa, but I wanted to share with you my reasons for authoring the Assembly companion and my support for this legislation.

This bill makes a few minor, but necessary changes to our current adoption laws. During the 2005-06 Session I chaired the Legislative Council Study Committee on Adoption and Termination of Parental Rights. The culmination of that effort was AB 521, which made several changes to update our laws on the adoption and termination of parental rights process.

After the passage of that bill, two glitches were brought to my attention. First, a change to allow for the placement of adoptive children with their proposed out-of-state adoptive parents prior to TPR was not clear in the final bill draft. This is a significant piece for updating our adoption laws because we have heard from private adoption attorneys that birth mothers are leaving our state to give birth elsewhere so they could avoid having to place their newborn in foster care until the TPR can take place. I also talked to adoptive parents who had to move to Lake Geneva to their summer home so that their adoptive child could be placed with them before the final adoption. We are aware that bonding immediately after birth is so very important and this will facilitate this theory.

Secondly, when the study group discussed the need for preadoptive preparation we never intended that the Department of Health and Family Services (DHFS) should have to pay for private adoption preparation. DHFS brought to our attention that the law as drafted did not clarify that DHFS need only pay for preadoptive preparation for children adopted out of the child welfare system. This legislation fixes the original intent of AB 521.

In addition, DHFS came to me and requested a small but important change related to when relative caregivers are subject to the Interstate Compact on the Placement of Children (ICPC). Currently, the ICPC does not apply to the sending or bringing of a child into a receiving state by

certain relative caregivers. This bill simply clarifies that this exemption only applies to relative caregivers who have full legal right to plan for the child.

This bill:

- Permits a child to be placed for adoption prior to termination of parental rights (TPR);
- Eliminates a requirement that the DHFS pay for preadoptive preparation when a child is placed for adoption by a child welfare agency; and
- Clarifies when the ICPC procedures apply to the sending or bringing of a child into a receiving state.

Thank you again for hearing this bill and I encourage your support for Senate Bill 464 as it makes its way through this committee and again when it comes for a vote before the full Senate.